

SENATE BILL No. 288

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-3-1; IC 6-1.1-17; IC 36-4-7-6; IC 36-5-3-3.

Synopsis: Local government budget notices. Reinstates certain expired statutes concerning local government budget notices. Reinstates an expired statute providing that if the budget notice is not timely published due to the fault of a newspaper, the notice is a valid notice if it is published one time at least three days before the budget hearing. Reinstates an expired provision allowing the department of local government finance (DLGF) to correct certain errors or omissions that cause the budget notice to inaccurately reflect the tax rate, tax levy, or budget of a political subdivision. Reinstates the requirement that a political subdivision must give notice by publication to taxpayers of the estimated budget, the current and proposed tax levies of each fund, and the amounts of excessive levy appeals to be requested. Requires a political subdivision to include in the published notice the maximum permissible levy certified by the DLGF (rather than an estimated maximum permissible levy). Provides that a political subdivision must include in each notice the DLGF's Internet address at which the budget information is also available.

Effective: Upon passage.

Glick

January 8, 2015, read first time and referred to Committee on Local Government.



First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

SENATE BILL No. 288

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-3-1-2, AS AMENDED BY P.L.183-2014,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 2. (a) This section applies only when notice
4 of an event is required to be given by publication in accordance with
5 this chapter.
6 (b) If the event is a public hearing or meeting concerning any matter
7 not specifically mentioned in subsection (c), (d), (e), (f), (g), or (h)
8 notice shall be published one (1) time, at least ten (10) days before the
9 date of the hearing or meeting.
10 (c) If the event is an election, notice shall be published one (1) time,
11 at least ten (10) days before the date of the election.
12 (d) If the event is a sale of bonds, notes, or warrants, notice shall be
13 published two (2) times, at least one (1) week apart, with:
14 (1) the first publication made at least fifteen (15) days before the
15 date of the sale; and
16 (2) the second publication made at least three (3) days before the



1 date of the sale.

2 (e) If the event is the receiving of bids, notice shall be published two
3 (2) times, at least one (1) week apart, with the second publication made
4 at least seven (7) days before the date the bids will be received.

5 (f) If the event is the establishment of a cumulative or sinking fund,
6 notice of the proposal and of the public hearing that is required to be
7 held by the political subdivision shall be published two (2) times, at
8 least one (1) week apart, with the second publication made at least
9 three (3) days before the date of the hearing.

10 (g) If the event is the submission of a proposal adopted by a political
11 subdivision for a cumulative or sinking fund for the approval of the
12 department of local government finance, the notice of the submission
13 shall be published one (1) time. The political subdivision shall publish
14 the notice when directed to do so by the department of local
15 government finance.

16 (h) If the event is the required publication of an ordinance, notice of
17 the passage of the ordinance shall be published one (1) time within
18 thirty (30) days after the passage of the ordinance.

19 (i) If the event is one about which notice is required to be published
20 after the event, notice shall be published one (1) time within thirty (30)
21 days after the date of the event.

22 (j) If the event is anything else, notice shall be published two (2)
23 times, at least one (1) week apart, with the second publication made at
24 least three (3) days before the event.

25 (k) If any officer charged with the duty of publishing any notice
26 required by law is unable to procure advertisement:

- 27 (1) at the price fixed by law;
- 28 (2) because the newspaper refuses to publish the advertisement;
- 29 or
- 30 (3) because the newspaper refuses to post the advertisement on
- 31 the newspaper's Internet web site (if required under section 1.5 of
- 32 this chapter);

33 it is sufficient for the officer to post printed notices in three (3)
34 prominent places in the political subdivision, instead of publication of
35 the notice in newspapers and on an Internet web site (if required under
36 section 1.5 of this chapter).

37 (l) If a notice of budget estimates for a political subdivision is
38 published as required in IC 6-1.1-17-3, and the published notice
39 contains an error due to the fault of a newspaper, the notice as
40 presented for publication is a valid notice under this chapter. This
41 subsection expires January 1, 2015.

42 ~~(m) Notwithstanding subsection (j), if a notice of budget estimates~~



for a political subdivision is published as required in IC 6-1.1-17-3; and if the notice is not published at least ten (10) days before the date fixed for the public hearing on the budget estimate due to the fault of a newspaper, the notice is a valid notice under this chapter if it is published one (1) time at least three (3) days before the hearing. This subsection expires January 1, 2015.

(m) Notwithstanding subsection (j), if a notice of budget estimates for a political subdivision is published as required in IC 6-1.1-17-3, and if the notice is not published at least ten (10) days before the date fixed for the public hearing on the budget estimate due to the fault of a newspaper, the notice is a valid notice under this chapter if it is published one (1) time at least three (3) days before the hearing.

SECTION 2. IC 5-3-1-2.3, AS AMENDED BY P.L.183-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.3. (a) A notice published in accordance with this chapter or any other Indiana statute is valid even though the notice contains errors or omissions, as long as:

- (1) a reasonable person would not be misled by the error or omission; and
- (2) the notice is in substantial compliance with the time and publication requirements applicable under this chapter or any other Indiana statute under which the notice is published.

(b) This subsection applies if:

- (1) a county auditor publishes a notice concerning a tax rate, tax levy, or budget of a political subdivision in the county;
- (2) the notice contains an error or omission that causes the notice to inaccurately reflect the tax rate, tax levy, or budget actually proposed or fixed by the political subdivision; and
- (3) the county auditor is responsible for the error or omission described in subdivision (2).

Notwithstanding any other law, the department of local government finance may correct an error or omission described in subdivision (2) at any time. If an error or omission described in subdivision (2) occurs, the county auditor must publish, at the county's expense, a notice containing the correct tax rate, tax levy, or budget as proposed or fixed by the political subdivision. This subsection expires January 1, 2015.

(b) This subsection applies if:

- (1) a county auditor publishes a notice concerning a tax rate, tax levy, or budget of a political subdivision in the county;
- (2) the notice contains an error or omission that causes the notice to inaccurately reflect the tax rate, tax levy, or budget



1 actually proposed or fixed by the political subdivision; and
 2 (3) the county auditor is responsible for the error or omission
 3 described in subdivision (2).

4 Notwithstanding any other law, the department of local
 5 government finance may correct an error or omission described in
 6 subdivision (2) at any time. If an error or omission described in
 7 subdivision (2) occurs, the county auditor must publish, at the
 8 county's expense, a notice containing the correct tax rate, tax levy,
 9 or budget as proposed or fixed by the political subdivision.

10 SECTION 3. IC 6-1.1-17-3, AS AMENDED BY P.L.183-2014,
 11 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 UPON PASSAGE]: Sec. 3. (a) The proper officers of a political
 13 subdivision shall formulate its estimated budget and its proposed tax
 14 rate and tax levy on the form prescribed by the department of local
 15 government finance and approved by the state board of accounts. The
 16 political subdivision or appropriate fiscal body, if the political
 17 subdivision is subject to section 20 of this chapter, shall ~~(before~~
 18 ~~January 1, 2015)~~ at least ten (10) days before the public hearing; give
 19 notice by publication to taxpayers of:

- 20 (1) the estimated budget;
- 21 (2) the ~~estimated~~ maximum permissible levy **certified by the**
 22 **department of local government finance;**
- 23 (3) the current and proposed tax levies of each fund; and
- 24 (4) the amounts of excessive levy appeals to be requested.

25 The political subdivision or appropriate fiscal body shall also state the
 26 time and place at which the political subdivision or appropriate fiscal
 27 body will hold a public hearing on these items. The political
 28 subdivision or appropriate fiscal body shall ~~(before January 1, 2015)~~
 29 publish the notice twice in accordance with IC 5-3-1 with the first
 30 publication at least ten (10) days before the date fixed for the public
 31 hearing. The first publication must be before September 14, and the
 32 second publication must be before September 21 of the year. The
 33 political subdivision shall pay for the publishing of the notice. The
 34 political subdivision shall submit this information to the department's
 35 computer gateway before September 14 of each year and at least ten
 36 (10) days before the public hearing required by this subsection in the
 37 manner prescribed by the department. The department shall make this
 38 information available to taxpayers, at least ten (10) days before the
 39 public hearing, through its computer gateway and provide a telephone
 40 number through which taxpayers may request mailed copies of a
 41 political subdivision's information under this subsection. The
 42 department's computer gateway must allow a taxpayer to search for the



1 information under this subsection by the taxpayer's address. The
 2 department shall review only the submission to the department's
 3 computer gateway for compliance with this section.

4 (b) ~~For taxes due and payable in 2015 and 2016, each county shall~~
 5 ~~publish a notice in accordance with IC 5-3-1 in two (2) newspapers~~
 6 ~~published in the county stating~~ **A political subdivision shall include**
 7 **in each notice published under subsection (a) the department of**
 8 **local government finance's** Internet address at which the information
 9 under subsection (a) is **also** available and the telephone number
 10 through which taxpayers may request copies of a political subdivision's
 11 information under subsection (a). ~~If only one (1) newspaper is~~
 12 ~~published in the county, publication in that newspaper is sufficient. The~~
 13 ~~department of local government finance shall prescribe the notice.~~
 14 ~~Notice under this subsection shall be published before September 14.~~
 15 ~~Counties may seek reimbursement from the political subdivisions~~
 16 ~~within their legal boundaries for the cost of the notice required under~~
 17 ~~this subsection. The actions under this subsection shall be completed~~
 18 ~~in the manner prescribed by the department.~~

19 (c) The board of directors of a solid waste management district
 20 established under IC 13-21 or IC 13-9.5-2 (before its repeal) may
 21 conduct the public hearing required under subsection (a):

- 22 (1) in any county of the solid waste management district; and
- 23 (2) in accordance with the annual notice of meetings published
- 24 under IC 13-21-5-2.

25 (d) The trustee of each township in the county shall estimate the
 26 amount necessary to meet the cost of township assistance in the
 27 township for the ensuing calendar year. The township board shall adopt
 28 with the township budget a tax rate sufficient to meet the estimated cost
 29 of township assistance. The taxes collected as a result of the tax rate
 30 adopted under this subsection are credited to the township assistance
 31 fund.

32 (e) A political subdivision for which any of the information under
 33 subsection (a) is not ~~(before January 1, 2015)~~ published and is not
 34 submitted to the department's computer gateway in the manner
 35 prescribed by the department shall have its most recent annual
 36 appropriations and annual tax levy continued for the ensuing budget
 37 year.

38 (f) If a political subdivision or appropriate fiscal body timely
 39 publishes ~~(before January 1, 2015)~~ and timely submits the information
 40 under subsection (a) but subsequently discovers the information
 41 contains a typographical error, the political subdivision or appropriate
 42 fiscal body may request permission from the department to submit



1 amended information to the department's computer gateway and
 2 ~~(before January 1, 2015)~~ to publish the amended information. However,
 3 such a request must occur not later than seven (7) days before the
 4 public hearing held under subsection (a). Acknowledgment of the
 5 correction of an error shall be posted on the department's computer
 6 gateway and communicated by the political subdivision or appropriate
 7 fiscal body to the fiscal body of the county in which the political
 8 subdivision and appropriate fiscal body are located.

9 SECTION 4. IC 6-1.1-17-16, AS AMENDED BY P.L.183-2014,
 10 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 UPON PASSAGE]: Sec. 16. (a) Subject to the limitations and
 12 requirements prescribed in this section, the department of local
 13 government finance may revise, reduce, or increase a political
 14 subdivision's budget by fund, tax rate, or tax levy which the department
 15 reviews under section 8 or 10 of this chapter.

16 (b) Subject to the limitations and requirements prescribed in this
 17 section, the department of local government finance may review,
 18 revise, reduce, or increase the budget by fund, tax rate, or tax levy of
 19 any of the political subdivisions whose tax rates compose the aggregate
 20 tax rate within a political subdivision whose budget, tax rate, or tax
 21 levy is the subject of an appeal initiated under this chapter.

22 (c) Except as provided in section 16.1 of this chapter, the
 23 department of local government finance is not required to hold a public
 24 hearing before the department of local government finance reviews,
 25 revises, reduces, or increases a political subdivision's budget by fund,
 26 tax rate, or tax levy under this section.

27 (d) Except as provided in subsection (i), IC 20-46, or IC 6-1.1-18.5,
 28 the department of local government finance may not increase a political
 29 subdivision's budget by fund, tax rate, or tax levy to an amount which
 30 exceeds the amount originally fixed by the political subdivision.
 31 However, if the department of local government finance determines
 32 that IC 5-3-1-2.3(b) ~~(before its expiration)~~ applies to the tax rate, tax
 33 levy, or budget of the political subdivision, the maximum amount by
 34 which the department may increase the tax rate, tax levy, or budget is
 35 the amount originally fixed by the political subdivision, and not the
 36 amount that was incorrectly published or omitted in the notice
 37 described in IC 5-3-1-2.3(b). ~~(before its expiration)~~. The department of
 38 local government finance shall give the political subdivision
 39 notification electronically in the manner prescribed by the department
 40 of local government finance specifying any revision, reduction, or
 41 increase the department proposes in a political subdivision's tax levy
 42 or tax rate. The political subdivision has ten (10) calendar days from



the date the political subdivision receives the notice to provide a response electronically in the manner prescribed by the department of local government finance. The response may include budget reductions, reallocation of levies, a revision in the amount of miscellaneous revenues, and further review of any other item about which, in the view of the political subdivision, the department is in error. The department of local government finance shall consider the adjustments as specified in the political subdivision's response if the response is provided as required by this subsection and shall deliver a final decision to the political subdivision.

(e) The department of local government finance may not approve a levy for lease payments by a city, town, county, library, or school corporation if the lease payments are payable to a building corporation for use by the building corporation for debt service on bonds and if:

- (1) no bonds of the building corporation are outstanding; or
- (2) the building corporation has enough legally available funds on hand to redeem all outstanding bonds payable from the particular lease rental levy requested.

(f) The department of local government finance shall certify its action to:

- (1) the county auditor;
- (2) the political subdivision if the department acts pursuant to an appeal initiated by the political subdivision;
- (3) the taxpayer that initiated an appeal under section 13 of this chapter, or, if the appeal was initiated by multiple taxpayers, the first ten (10) taxpayers whose names appear on the statement filed to initiate the appeal; and
- (4) a taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision.

(g) The following may petition for judicial review of the final determination of the department of local government finance under subsection (f):

- (1) If the department acts under an appeal initiated by a political subdivision, the political subdivision.
- (2) If the department:
 - (A) acts under an appeal initiated by one (1) or more taxpayers under section 13 of this chapter; or
 - (B) fails to act on the appeal before the department certifies its action under subsection (f);
 a taxpayer who signed the statement filed to initiate the appeal.
- (3) If the department acts under an appeal initiated by the county



auditor under section 14 of this chapter, the county auditor.

(4) A taxpayer that owns property that represents at least ten percent (10%) of the taxable assessed valuation in the political subdivision.

The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (f).

(h) The department of local government finance is expressly directed to complete the duties assigned to it under this section not later than February 15 of each year for taxes to be collected during that year.

(i) Subject to the provisions of all applicable statutes, the department of local government finance shall, unless the department finds extenuating circumstances, increase a political subdivision's tax levy to an amount that exceeds the amount originally advertised or adopted by the political subdivision if:

(1) the increase is requested in writing by the officers of the political subdivision;

(2) the requested increase is published on the department's advertising Internet web site and ~~(before January 1, 2015)~~ is published by the political subdivision according to a notice provided by the department; and

(3) notice is given to the county fiscal body of the error and the department's correction.

If the department increases a levy beyond what was advertised or adopted under this subsection, it shall, unless the department finds extenuating circumstances, reduce the certified levy affected below the maximum allowable levy by the lesser of five percent (5%) of the difference between the advertised or adopted levy and the increased levy, or one hundred thousand dollars (\$100,000).

(j) The department of local government finance shall annually review the budget by fund of each school corporation not later than April 1. The department of local government finance shall give the school corporation written notification specifying any revision, reduction, or increase the department proposes in the school corporation's budget by fund. A public hearing is not required in connection with this review of the budget.

SECTION 5. IC 36-4-7-6, AS AMENDED BY P.L.183-2014, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. Before the publication ~~(before January 1, 2015)~~ and before the submission of the notice of the budget estimates required by IC 6-1.1-17-3, each city shall formulate a budget estimate for the ensuing budget year in the following manner:

(1) Each department head shall prepare for the department head's



1 department an estimate of the amount of money required for the
 2 ensuing budget year, stating in detail each category and item of
 3 expenditure the department head anticipates.

4 (2) The city fiscal officer shall prepare an itemized estimate of
 5 revenues available for the ensuing budget year, and shall prepare
 6 an itemized estimate of expenditures for other purposes above the
 7 money proposed to be used by the departments.

8 (3) The city executive shall meet with the department heads and
 9 the fiscal officer to review and revise their various estimates.

10 (4) After the executive's review and revision, the fiscal officer
 11 shall prepare for the executive a report of the estimated
 12 department budgets, miscellaneous expenses, and revenues
 13 necessary or available to finance the estimates.

14 SECTION 6. IC 36-5-3-3, AS AMENDED BY P.L.183-2014,
 15 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 UPON PASSAGE]: Sec. 3. Before the publication (~~before January 1,~~
 17 ~~2015~~) and before the submission of the notice of the budget estimates
 18 required by IC 6-1.1-17-3, each town shall formulate a budget estimate
 19 for the ensuing budget year in the following manner, unless it provides
 20 by ordinance for a different manner:

21 (1) Each department head shall prepare for the department head's
 22 department an estimate of the amount of money required for the
 23 ensuing budget year, stating in detail each category and item of
 24 expenditure the department head anticipates.

25 (2) The town fiscal officer shall prepare an itemized estimate of
 26 revenues available for the ensuing budget year, and shall prepare
 27 an itemized estimate of expenditures for other purposes above the
 28 money proposed to be used by the departments.

29 (3) The town executive shall meet with the department heads and
 30 the fiscal officer to review and revise their various estimates.

31 (4) After the executive's review and revision, the fiscal officer
 32 shall prepare for the executive a report of the estimated
 33 department budgets, miscellaneous expenses, and revenues
 34 necessary or available to finance the estimates.

35 SECTION 7. **An emergency is declared for this act.**

